

# **REVIEW OF THE IOWA DEPARTMENT OF HUMAN SERVICES DRUG TESTING PROCESS FOR DRUG TESTING OF A PERSON RESPONSIBLE FOR THE CARE OF A CHILD IN CHILD ABUSE CASES**

## **Executive Summary**

This report outlines the current drug testing practices, guidelines, programs, and initiatives as currently implemented by the Department regarding the process for drug testing of a person responsible for the care of a child in child abuse cases.

## **Drug Testing Effectiveness Findings**

Drug testing effectiveness is defined as the reliability of the drug testing results. To ensure effectiveness in drug testing the Department has set standards for collections and laboratory services. The Department's standards are those endorsed by Substance Abuse and Mental Health Services Administration (SAMHSA). Where there are no current national standards offered, generally accepted industry standards have been instituted. The Department's standards have been subject to both internal and external expert review.

## **Drug Testing Consistency Findings**

Consistency for this report is defined to whether drug testing is applied in the same manner in all Service Areas. The purpose of drug testing in child welfare is to ensure the safety of children. Drug testing is viewed as one piece of information the Department may use in assessing the safety of a child. Consistency in practice and differences in drug testing across Service Areas are discussed in this section.

## **Drug Testing Funding Findings**

This section identifies how funding designated for drug testing is utilized. Estimated expenditures for collections and laboratory drug testing services are:

- Child Protective Assessments (Investigations): \$800,000
- Ongoing Child Welfare Cases: \$500,000
- Court Ordered Services: \$500,000

## **Discussion and Remarks**

This section addresses other issues associated with drug testing. The Department, the Iowa Judicial Branch and the Iowa Department of Public Health are developing a joint protocol for drug testing in child abuse cases. Upon release this drug testing protocol will replace the Department's existing protocol.

## Forward

This report summarizes the findings of the Iowa Department of Human Services (Department) per SF 2425, Sec. 16. Child & Family Services, page 40, lines 12 through 20, item # 26; *“The department shall review the processes for drug testing of persons responsible for the care of a child in child abuse cases to evaluate the effectiveness of the testing, whether it is applied in the same manner in all service areas, identify how the funding designated for drug testing is utilized, and address other issues associated with the testing.”* The Department’s report outlines the current drug testing practices, guidelines, programs, and initiatives as currently implemented by the Department regarding the process for drug testing of a person responsible for the care of a child throughout the life of the case.

The purpose of drug testing in child welfare is to ensure the safety of children. However, drug testing alone will not protect children. Drug testing is done after careful consideration and evaluation of the information gathered regarding a parent/caretaker’s alleged drug usage, the known effects of the specific drug used and the potential impact on the parent/caretaker’s ability to provide proper care and supervision of a child. Drug testing is one piece of information that the Department can use during child abuse assessments and ongoing child welfare cases to assess the safety of the child.

To assure reliable drug testing results regarding the protection of children and to operate as efficiently and consistently as possible, the Department has developed and adopted suggested drug testing protocols. The protocols indicate drug testing types and frequencies and provide a general guideline to Department staff as to what testing should routinely be followed. While the protocols offer drug testing guidelines they do not preclude using a lesser or an increased frequency or, stopping testing altogether, if the testing results or case circumstances warrant it.

### Definitions

***Drug Testing:*** the process by which samples of hair, sweat, saliva, urine, or fingernail clippings are chemically analyzed to determine the presence of substances or metabolites, legal or illegal, in the sample.

***Collections Drug Testing Services:*** the process by which a sample of a bodily substance is obtained for use in a chemical analysis to determine the presence of certain substances or metabolites, legal or illegal in the sample.

***Laboratory Drug Testing Services:*** the chemical analysis process used to determine the presence of certain substances, legal or illegal, in a specific sample of hair, sweat, saliva, urine or fingernail clippings.

## Contents

- I. *Background* identifies the Department's legal basis for drug testing.
- II. *Drug Testing Effectiveness* evaluates the effectiveness of the drug testing.
- III. *Drug Testing Consistency* determines whether drug testing is applied in the same manner, in all Service Areas.
- IV. *Drug Testing Funding* identifies how the funding designated for drug testing is utilized.
- V. *Discussions and Remarks* addresses any other issues associated with the drug testing.
- VI. *Appendixes*
  - A. *Drug Testing Guidelines Developed for the Department of Human Services, RC-0090. Task Force Members of the Iowa Department of Human Services, the Iowa Department of Public Health and Substance Abuse Treatment Providers (June 10, 2005).*
  - B. *Default Drug Testing Protocols (September 4, 2007).*
  - C. *Drug Testing Finals.*

## I. Background.

### Legal Basis

It is the purpose and policy of the Department to provide the greatest possible protections to children who may have been abused or are at risk for abuse. Drug testing is one piece of information used by the Department in protecting children. The legal basis for the Department's policies and practices around drug testing are guided by the following provisions of the Iowa Code:

#### ***Iowa Code Section 232.73*** Medically relevant tests

As used in this section and in sections 232.77 and 232.78, "medically relevant test" means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives of the illegal drugs, including a drug urine screen test.

#### ***Iowa Code Section 232.77*** Photographs, X rays, and medically relevant tests

(2) If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232. 73, on the child. The practitioner shall report any positive results of such a test on

the child to the department. The department shall begin an assessment pursuant to section 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

**Iowa Code, Section 232.78, 1., b.** Temporary custody of a child pursuant to ex parte court order:

(1) The refusal or failure of the person responsible for the care of the child to comply with request of a peace officer, juvenile court officer, or child protection worker for such person to obtain and provide to the requester the results of a physical or mental examination of the child. The request for a physical examination of the child may specify the performance of a medically relevant test.

(2) The refusal or failure of the person responsible for the care of the child or a person present in the person's home to comply with a request of a peace officer, juvenile court officer, or child protection worker for such a person to submit to and provide to the requester the results of a medically relevant test of the person.

## **II. Drug Testing Effectiveness.**

### **Methodology**

For the purpose of this report the effectiveness of drug testing is defined as the reliability of the drug testing results. To evaluate effectiveness of the reliability of the Department's drug testing results, the Department's drug testing standards and protocols were subject to both an internal review by a Methamphetamine Specialist from the Department and an external review by substance abuse experts from the Iowa Department of Public Health (IDPH). In addition, technical assistance was requested from the National Center on Substance Abuse and Child Welfare (NCSACW) regarding drug testing standards and protocols used in other states for the purpose of comparison to Iowa's.

### **Findings**

#### ***Internal Review***

Currently, the Department has in place specific statewide drug testing methodology guidelines that prescribe the type of testing, the frequency of testing and the duration of testing. To review the reliability of the Department's drug testing guidelines a Methamphetamine Specialist from the Department compared the Department's standards against national standards. The Methamphetamine Specialist reported the statewide drug testing requirements set by the Department for collections and laboratory services do meet the minimum federal guidelines endorsed by Substance Abuse and Mental Health Services Administration (SAMHSA) and that where there are no current national standards offered, generally accepted industry standards have been adopted by the Department. As such, the contractual arrangements for collections and laboratory services that are currently in place meet the regulatory, licensing, and industry standards that the Department requires and are those endorsed by SAMHSA and/or are reflective of generally accepted industry standards.

The Department's drug testing collections and laboratory services standards include:

- Laboratory Gas Chromatography/Mass Spectrometry (GC/MS) testing or better confirmation for substances in which instant result samples yield a presumptive positive result.
- All laboratory drug testing incorporate immunoassay technology and that all positive results are verifiable by GC/MS, Liquid Chromatography/Mass Spectrometry (LC/MS) or Liquid Chromatography-Mass Spectrometry/Mass Spectrometry (LC-MS/MS).
- Instant testing from adulterant tests for pH, specific gravity and temperature.
- All personnel involved in the collections and laboratory services are trained and certified in various testing methodologies and the use of collection devices and procedures.
- The "chain of custody" or the legal protocol regarding the documentation of specimen transfer from the time of collection until reporting of the results is mandated. The "chain of custody" makes the drug results legally admissible.

#### ***External Review***

At the request of the Department, the Iowa Department of Public Health (IDPH) reviewed the Department's drug testing standards and protocols. IDPH supports the protocols as written with the notation that multiple protocols beyond the standard defaults listed, "do not seem necessary and may be overly prescriptive". A stronger emphasis was suggested on the introductory language regarding the need for case-specific decision-making and collaboration across all involved parties.

#### ***Other states***

The Department also requested technical assistance from the National Center on Substance Abuse and Child Welfare (NCSACW) regarding the drug testing standards and protocols in other states for the purpose of comparison to Iowa's. In reviewing the standards from other states the Department found that Iowa's drug testing standards and protocols are comparable to those of other states.

#### **Conclusions**

The statewide drug testing standards set by the Department for collections and laboratory services meet the minimum federal guidelines endorsed by SAMHSA. Where there are no current national standards offered, generally accepted industry standards have been adopted by the Department.

### **III. Drug Testing Consistency.**

#### **Methodology**

Consistency for this report is defined as to how drug testing is applied across the state in child abuse cases. To determine whether drug testing is applied in the same manner in all Service Areas; Service Area Managers, Methamphetamine Specialists and local child welfare staff were consulted regarding drug testing policies and practices.

## Findings

There are consistencies in practice as well as differences regarding whether drug testing is applied in the same manner across in all Service Areas.

### *Consistency in Practice:*

- **Case Assessments:** Within all Service Areas the decision to test a parent and the extent that drug testing results influence critical decisions around a child's safety is based on the information gathered during the child abuse assessment and/or during the monitoring phase of an ongoing child welfare case. A drug testing decision is made after careful consideration and evaluation of the information gathered regarding a parent/caretaker's alleged drug usage, the known effects of the specific drug used and the potential impact on the parent/caretaker's ability to provide proper care and supervision of a child. It is the critical evaluation of this information that determines whether or not drug testing is needed, and if so, what method, type and the frequency of the drug testing.
- **Staff Training:** All Department staff are trained in the philosophy and approach to drug testing through the statewide child protection training program. This program includes training in the policies and procedures around substance abuse and drug testing. Courses include presentations by Iowa physician, Dr. Rizwan Shaw, who is nationally recognized for her work with drug-endangered children and with state narcotics law enforcement officers. Training and consultation services are also provided by the Service Area Methamphetamine Specialists who serve as a resource for Department staff. Consultation services include interpretation and consultation of drug screening results, treatment strategies, and monitoring techniques on case work with caretakers that use substances with the goal of reducing the impact of substance abuse on the family to ultimately reduce repeat child abuse.
- **Cutoff Levels:** All Service Areas use the same "cut off levels" or testing threshold. This is the level at or above which a test will be reported as positive. These standards reflect those endorsed by Substance Abuse and Mental Health Services Administration (SAMHSA) and/or generally accepted industry standards.
- **Random Testing:** All Service Areas utilize random testing.
- **Life of the Case:** All Service Areas assess the need for drug testing at critical points (reunification, unsupervised visitation, case closure etc.) during the life of a case. Drug testing decisions are based on the assessment of individual cases.
- **Supervisory Oversight:** All Service Areas require supervisory oversight and consultation as part of the authorization process for drug testing. Consultation is around the necessity of drug testing, the behavioral indicators of drug usage in regard to the safety of children, what the testing will reveal, and how the results will be used.
- **Substance Abuse Facilities:** All Service Areas utilize, consult and make referrals to local substance abuse treatment facilities in their respective areas.
- **Support Services:** All Service Areas provide support services such as Safety Plan Services, and/or Family, Risk and Safety Services with drug related child abuse cases when appropriate to protect children.
- **Drug Testing Authorization:** All Services Areas may extend the standard three-month drug testing authorization period if a case situation warrants it.

***Differences:***

- ***Current Lab Contract:*** Service Areas have the option of using the statewide laboratory contract with CSS Test, Inc. Currently, six Service Areas utilize the services under this contract. Two Service Areas do not use this contract primarily due to existing contracts with other labs.
- ***Collections Services:*** Each Service Area has established a collections services system within their area. In five of the Service Areas, families may have to leave their particular county to get tested however, special arrangements can be made to have testing available in the county if necessary. Three Service Areas have testing available in every county within their Service Areas.
- ***Frequency of Testing:*** All eight Service Areas use the *Default Drug Testing Protocols (Appendix D)* in determining the testing regimen to use. Four of the Service Areas begin drug testing at the suggested default protocol frequency and then increase or decrease the frequency based on the case situation. The other four Service Areas have established a "local default protocol" in which they begin testing at a lesser frequency and then increase or decrease the frequency based on the case situation. The frequency of testing in all Service Areas can also be influenced by the practices of individual judges and subsequent court orders.

**Conclusion**

Drug testing standards used by all Service Areas reflect those endorsed by Substance Abuse and Mental Health Services Administration (SAMHSA) and/or meet generally accepted industry standards. All drug testing procedures are driven by individual assessment of the child abuse case and need. Service Areas have the discretion to determine the testing regimen they follow based on the circumstances of a case. In determining the frequency of testing all Service Areas refer to the *Default Drug Testing Protocols (Appendix D.)* for guidance. Frequency of testing is also influenced by the orders of Juvenile Judges. Other differences involve the availability and access to collections services rather than a result of a lack of consistency or standardization in drug testing.

## **IV. Drug Testing Funding.**

An estimated \$800,000 per year is being spent by the Department for the one time drug testing in connection with a child protective assessment (investigation). Approximately \$500,000 per year is being spent on drug testing for ongoing child welfare cases in which periodic testing is required based on individual cases. In addition, approximately \$500,000 per year is currently being spent for drug testing from the Court Ordered Services fund for both juvenile delinquents and children in need of assistance cases. These estimated amounts include both the costs of collection and laboratory services.

**Findings**

***Timing of Testing***

There are two points in the life of a case in which drug testing occurs. One is in connection with a child protective assessment (investigation) that is usually a one time

test. The other condition is periodic testing for ongoing child welfare cases. These tests occur regularly as determined by the individual case.

### ***Funding Sources***

- ***Child and Family Appropriation*** – State funding specifically for child welfare drug testing is the primary funding source for payment of drug testing services for ongoing case management services. It can also be used for drug testing done during child abuse assessments.
- ***Child Abuse Registry*** - The Child Abuse Registry will pay for drug testing when:  
A drug test is performed prior to a report of child abuse being made to DHS and the test was ordered by a health practitioner as it was determined to be medically indicated.

The drug test is performed as part of a child abuse assessment on an adult that is named as an alleged perpetrator on an allegation of Denial of Critical Care; Failure to Provide Proper Supervision or on an allegation involving the Presence of Illegal Drugs in a Child.

The source of this funding is federal state CAPTA dollars.

- ***Court Ordered Services*** – Court Ordered Services funding for both juvenile delinquents and children in need of assistance cases is available to all Service Areas in cases where drug testing is ordered by the court. This funding is included within the Child and family Services appropriation.
- ***DECAT (Decategorization)*** - ***DECAT*** is a funding resource that Service Areas may use for drug testing where DECAT areas have established agreements with providers to handle collections and arrange for laboratory services.

This is summarized in the chart below:

<b>Types of Cases</b>	<b>Funding Sources</b>	<b>Estimated Expenditures</b>
Child Abuse Assessments	Child Abuse Registry (CAR) State Child Welfare Services	\$800,000
Ongoing Child Welfare Cases	State Child Welfare Services Court Ordered Services Decategorization (DECAT)	\$500,000 \$500,000

### **Conclusion**

The Department currently spends approximately \$1.8 M annually on drug testing.



## **V. Discussions and Remarks.**

### ***National Center on Substance Abuse and Child Welfare (NCSACW)***

*Drug Testing; A “How To Guide” for a Treatment Tool* is a resource guide that is currently being written in partnership with the Department, the Iowa Department of Public Health, and the Iowa Judicial Department as part of the In-Depth Technical Assistance (IDTA) project that is underway in Iowa. The guide is intended for administrators, field staff, Judges and substance abuse providers and provides information on the type, method, and frequency of drug testing. It discusses why drug testing is one of a number of things that workers can use in assessing child abuse cases and discusses what variables to consider when deciding when to test and how to know when to stop testing. Other areas discussed in the guide are behavioral indicators regarding client progress and the importance of collaboration among agencies during the substance abuse recovery period to ensure the safety of children. In writing the guide, the group received technical assistance services from the National Center on Substance Abuse and Child Welfare (NCSACW). Once finalized, all three state agencies will adopt these new protocols and they will replace those described and attached in this report.

## VI. Appendixes

- A. *Drug Testing Guidelines Developed for the Department of Human Services, RC-0090. Task Force Members of the Iowa Department of Human Services, the Iowa Department of Public Health and Substance Abuse Treatment Providers (June 10, 2005).*

This guideline is a decision making tool for determining drug testing methods. It offers general information on drug tests and includes a chart identifying the screening levels used in drug testing.

- B. *Default Drug Testing Protocols (September 4, 2007).*

This guideline identifies the default protocols for drug testing frequencies. This was written as an enhancement to the Section entitled, Adult UA Frequency Protocol, within *Drug Testing Guidelines Developed for the Department of Human Services, RC-0090 (Appendix A)*.

- C. *Drug Testing Finals.*

This resource lists the various drug testing panels, types and associated costs with each test.